

file. Names and other identifying information of persons other than the complainant and the ADO will be deleted by the investigator from the copies shown to the ADO to protect these persons from an unwarranted invasion of their privacy. The investigator must also advise the ADO of his or her right to have a representative present.

(b) The investigator must give the ADO full opportunity to state the facts as he or she understands them, in affidavit form, for inclusion in the investigative file, and to name witnesses who might be questioned. The investigator must inform the ADO that only witnesses whose testimony is considered necessary to the investigation will be interviewed. Also, the investigator must tell the ADO that the only testimony to be obtained in affidavit form and included in the investigative file is that which the investigator deems relevant and necessary to the investigation.

(c) The activity EEO officer must keep the ADO informed of the progress of the investigation. When the investigation is completed, the EEO officer must review the investigative file to ensure that the ADO has had the opportunity to provide his or her version of the facts in response to each allegation. If the file shows that the ADO was not given this opportunity, the EEO officer will return the case file to USACARA for appropriate action.

**§ 588.63 Informal adjustment and proposed disposition.**

(a) The Activity Commander or a designee may, at his or her discretion, consult with the ADO on the terms under which the activity will try to informally resolve the complaint.

(b) If an informal adjustment is agreed upon, the Activity Commander or his or her designee must inform the ADO of the terms of the agreement.

(c) If an agreement is not reached, the Activity Commander or a designee will give the ADO a copy of the proposed disposition.

**§ 588.64 The ADO at the hearing.**

(a) The ADO has the right to testify at the hearing and comment for the record on any allegations against him or her including new allegations made

at the hearing. If the ADO has not been called to testify, the activity EEO officer must tell the ADO how and where to contact the labor counselor and the hearing examiner to arrange to testify or comment.

(b) The presence of the ADO and his or her representative, if any, at the hearing is limited to the time the ADO appears as a witness.

**§ 588.65 The final Army decision.**

(a) If the final Army decision finds discrimination, the Activity Commander or his or her designee will review the entire file and determine whether disciplinary action against the ADO is appropriate and record the basis for its decision. The decision shall not be included in the complaint file. If the decision is to take disciplinary action, the entire complaint file will be made available to the ADO for review. If no disciplinary action is taken against the ADO after a finding of discrimination, the complaint file will be made available to the ADO for review but names and identifying information of persons other than the complainant and the ADO will be deleted from the file. This action will be taken to protect such persons from an unwarranted invasion of privacy.

(b) If the activity takes or proposes adverse or other corrective action against the ADO based on the evidence developed in processing the complaint, the Activity Commander or his or her designee will make the entire complaint file, without deletions, available to the ADO for review. Corrective action may include requiring the ADO to complete EEO training or temporarily or permanently withdrawing the ADO's selection or disciplinary authority. Though not disciplinary, such actions constitute censure and correction of the ADO's conduct or performance.

(c) If the final decision concludes there was no discrimination, the Activity Commander or his or her designee will give the ADO a copy, sanitized in accord with a, above, of the final Army decision only.

**§ 588.66 Appeals to the EEOC.**

If a complainant appeals the Army decision to the EEOC Office of Review and Appeals, the EEO officer must give